

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #16	CCRB Case #: 202105273	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/25/2021 7:30 AM	Location of Incident: § 87(2)(b)	18 Mo. SOL 2/25/2023	Precinct: 43		
Date/Time CV Reported Wed, 08/25/2021 3:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/03/2021 10:36 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Edelman Santos	00239	949622	WARRSEC
2. SGT DS Alexander Rapp	02234	943719	GVSD GUN REC
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Anthony Galasso	01670	940170	WARRSEC
2. PO James Stalikas	18382	959268	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A . SGT DS Alexander Rapp	Abuse: Sergeant Alexander Rapp damaged § 87(2)(b) property.	§ 87(2)(b)
B . DT3 Edelman Santos	Abuse: Detective Edelman Santos damaged § 87(2)(b) property.	§ 87(2)(b)
C . SGT DS Alexander Rapp	Abuse: Sergeant Alexander Rapp entered § 87(2)(b) in The Bronx.	§ 87(2)(b)
D . DT3 Edelman Santos	Abuse: Detective Edelman Santos entered § 87(2)(b) in The Bronx.	§ 87(2)(b)
E . SGT DS Alexander Rapp	Abuse: Sergeant Alexander Rapp searched § 87(2)(b) in The Bronx.	§ 87(2)(b)
F . DT3 Edelman Santos	Abuse: Detective Edelman Santos searched § 87(2)(b) in The Bronx.	§ 87(2)(b)
G . An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H . An officer	Abuse: An officer drew their gun.	§ 87(2)(b)

### Case Summary

On August 25, 2021, at approximately 3:00 PM, § 87(2)(b) filed this complaint with IAB over the § 87(2)(b). It was received by the CCRB on September 3, 2021.

On August 25, 2021, at approximately 7:30 AM, Det. Edelman Santos, Det. Anthony Galasso, Sgt. Alexander Rapp, and PO James Stalikas arrived at § 87(2)(b) apartment, located at § 87(2)(b) in the Bronx to apprehend her ex-husband, § 87(2)(b) on an active parole warrant. § 87(2)(b) children, eight-year-old § 87(2)(b) § 87(2)(b) 12-year-old § 87(2)(b) and 17-year-old § 87(2)(b) were inside the apartment. The officers forcibly entered (Allegations A-D: Abuse of Authority, § 87(2)(g) and searched for § 87(2)(b) (Allegation E and F: Abuse of Authority, § 87(2)(g). During the search, an officer allegedly said, "Move the fucking kid out of the way" (Allegation G: Discourtesy, § 87(2)(g). An officer pointed his gun into a bedroom, but not toward anyone, and then holstered it (Allegation H: Abuse of Authority, § 87(2)(g). After the officers determined that § 87(2)(b) was not there, Det. Santos provided his business card to § 87(2)(b) and the officers left. No civilians were arrested or summonsed.

This case was assigned to former Investigator Santosh Prakash and was reassigned to Investigator McKenzie Dean upon his departure from the agency.

A request for BWC of the incident yielded negative results (BR 01). Det. Santos, Det. Galasso, and Sgt. Rapp were not equipped with BWCs at the time. § 87(2)(b) provided two cell phone photographs of the damage caused to her door during the incident (BR 02-03).

### Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Alexander Rapp damaged § 87(2)(b) property.

Allegation (B) Abuse of Authority: Detective Edelman Santos damaged § 87(2)(b) property.

Allegation (C) Abuse of Authority: Sergeant Alexander Rapp entered § 87(2)(b) in The Bronx.

Allegation (D) Abuse of Authority: Detective Edelman Santos entered § 87(2)(b) in The Bronx.

Allegation (E) Abuse of Authority: Sergeant Alexander Rapp searched § 87(2)(b) in The Bronx.

Allegation (F) Abuse of Authority: Detective Edelman Santos searched § 87(2)(b) in The Bronx.

It is undisputed that § 87(2)(b) had an active parole warrant and an ICARD at the time of the incident. Det. Santos was the lead investigator for § 87(2)(b) apprehension case, and he was responsible for the investigation into his whereabouts. In his initial workup, Det. Santos saw that § 87(2)(b) was associated with § 87(2)(b) address so he, Det. Galasso, and PO Stalikas went to her apartment building to apprehend him. Det. Santos spoke to a maintenance worker and a tenant, both of whom placed § 87(2)(b) at the location recently. Det. Santos and Det. Galasso went to § 87(2)(b) apartment while PO Stalikas stayed outside the building to watch the windows. Det. Santos knocked on § 87(2)(b) door and no one responded. § 87(2)(b) children, § 87(2)(b) and § 87(2)(b) were inside the apartment. Det. Santos called Sgt. Rapp to the scene and upon his arrival, Det. Santos told him about his conversations with the maintenance worker and the tenant. Det. Santos told Sgt. Rapp that § 87(2)(b) had been paroled to the location in the past and that he had recently been arrested there. Based on the information provided by Det. Santos, Sgt. Rapp authorized the officers to forcibly enter the apartment using a ram, damaging the door in the process. The officers searched the apartment for § 87(2)(b) which yielded negative results.

§ 87(2)(b) stated (BR 07) that § 87(2)(b) lived at her address between March 2020 and the beginning of August 2020 while he was on parole, and she had informed § 87(2)(b) parole officer of this. After § 87(2)(b) was no longer staying with § 87(2)(b) parole officers came to her apartment twice looking for him sometime in 2020, and she told them that he did not live there. At the time of the incident, § 87(2)(b) no longer lived in or visited § 87(2)(b) apartment and she had an order of protection against him. § 87(2)(b) (BR 10) also stated that § 87(2)(b) did not live in the apartment at the time of the incident. § 87(2)(b) and her four children are on the lease for the apartment § 87(2)(b) child, § 87(2)(b) was not present during the incident).

§ 87(2)(b) (BR 10) stated that two officers entered § 87(2)(b) bedroom and one of them looked inside the closet. § 87(2)(b) described the officer who looked inside the closet as a muscular white male in a blue/black uniform who had short black hair and the other officer as a fat white male in a blue/black uniform who had brown/black hair, was the same height as the first officer, and was holding a shield. § 87(2)(b) (BR 09) stated that two officers searched the closet in § 87(2)(b) room, and she described these officers as a 5'8" to 5'9" tall fat white male in a blue uniform who had short hair and was carrying a shield and a firearm and a skinny white male wearing a blue uniform.

§ 87(2)(b) stated that one of the officers also looked around § 87(2)(b) room, § 87(2)(b) and § 87(2)(b) shared bedroom, and the bathroom. None of the officers opened anything in any of the bedrooms. A statement was not obtained from § 87(2)(b) because the investigation was unable to get in contact with him (see IAs for contact attempts).

Det. Santos stated (BR 11) that during his investigation, he found that § 87(2)(b) was associated with a second address, § 87(2)(b) in The Bronx, which was the residence of his girlfriend, § 87(2)(b). Sometime between August 20, 2021, and August 23, 2021, § 87(2)(b) decided to press charges against § 87(2)(b) for assault and a probable cause ICARD for § 87(2)(b) listing § 87(2)(b) address was activated. § 87(2)(b) address was also listed on § 87(2)(b) parole warrant. Det. Santos stated that despite this, it made more sense for § 87(2)(b) to be at § 87(2)(b) address because § 87(2)(b) was pressing charges against him. Det. Santos also believed that parole officers had already visited § 87(2)(b) address because it was the address listed on the parole warrant and the one § 87(2)(b) had on file with parole.

Det. Santos stated that the maintenance worker he spoke with during the incident said that § 87(2)(b) lived on the second or third floor of § 87(2)(b) building and that he saw him two to three days to a week prior. The tenant told Det. Santos that § 87(2)(b) lived in the building and that he saw him a week prior. Neither the maintenance worker nor the tenant indicated to Det. Santos that § 87(2)(b) was in § 87(2)(b) apartment at the time of the incident.

Sgt. Rapp (BR 13) stated that upon his arrival, Det. Santos explained that a super and a resident of the building informed him that § 87(2)(b) was staying at § 87(2)(b) apartment. Det. Santos told Sgt. Rapp that § 87(2)(b) had § 87(2)(b) address listed as his residence and emergency contact with parole at one point and that he had been arrested inside the location within 30 days prior to the incident. Sgt. Rapp did not know if § 87(2)(b) address was § 87(2)(b) most recent parole address. Sgt. Rapp did not recall Det. Santos telling him about any other possible locations that § 87(2)(b) could have been. Sgt. Rapp did not know if Det. Santos visited § 87(2)(b) prior to the incident location.

Sgt. Rapp stated that a parole warrant is equivalent to an arrest warrant, however officers have more leeway with a parole warrant than a regular warrant due to the nature of a parolee and where they are supposed to be. Sgt. Rapp explained that if the officers can establish that they have reasonable cause to believe a subject is inside a location, and the subject has provided the address at one point in their parole history, the officers can take the door and enter. Sgt. Rapp stated that § 87(2)(b) apartment was not a third-party residence, so the officers were permitted to enter on the warrant.

Det. Galasso (BR 12) stated that prior to arriving at the incident location, Det. Santos



informed him that § 87(2)(b) had been arrested there a month prior and the person who lived in the apartment was either his ex-girlfriend or ex-wife. Det. Galasso did not know if the incident location was the address listed on § 87(2)(b) parole warrant or if § 87(2)(b) was paroled out of the location. Det. Galasso stated that the maintenance worker and the tenant placed § 87(2)(b) in the building in recent days and said that he stayed at the location. Det. Galasso was present for the conversation between Det. Santos and the maintenance worker, but he did not recall if he was present for the conversation with the tenant. Det. Santos' conversation with the maintenance worker and the neighbor, along with Det. Santos' workup on the case, led Det. Galasso to believe § 87(2)(b) was inside § 87(2)(b) apartment.

Det. Santos stated that the parole warrant authorized him to enter a premises that he believed § 87(2)(b) was located and that the address on the warrant was not relevant if Det. Santos believed § 87(2)(b) was inside. Det. Santos stated that once the apartment door was open, he entered followed by Det. Galasso, Sgt. Rapp, and two other officers, whom Det. Santos did not know. Det. Santos stayed with § 87(2)(b) as the other officers searched the apartment for other people. Det. Santos was not involved in this search. Sgt. Rapp stated that he remained in the hallway by the doorway once the door was opened and the other officers entered and searched the apartment for § 87(2)(b). Sgt. Rapp did not recall which officers, aside from Det. Santos, entered the apartment. Det. Santos stated that following the incident, he decided it was not necessary to go to § 87(2)(b) but his partners went to the location without him. Det. Galasso stated he visited § 87(2)(b) at some point, but he did not know if this was before or after the incident. Sgt. Rapp stated that upon leaving the incident location, he had no further involvement in § 87(2)(b) case.

Given that Det. Santos was the investigator assigned to § 87(2)(b) case and was responsible for investigating his whereabouts, and that Sgt. Rapp acknowledged authorizing the forcible entry of § 87(2)(b) apartment and being present for the search, these allegations were solely pleaded against them.

Photos provided by § 87(2)(b) (BR 02-03) depict damage to the doorknob and side of her door, which was caused by the officers when they rammed it open.

§ 87(2)(b) Parole Warrant § 87(2)(b) (BR 15) and his probable cause to arrest ICARD § 87(2)(b) (BR 20) list his address as § 87(2)(b) apartment, § 87(2)(b) in the Bronx. Both documents show § 87(2)(b) most recent arrest was on July 1, 2021, inside § 87(2)(b) apartment and his last known residence at that time was § 87(2)(b) apartment.

Page 4 of the DD5s associated with the incident (BR 19) show that on August 12, 2021, Det. Santos conducted surveillance in the vicinity of § 87(2)(b) address, § 87(2)(b) which yielded negative results. Page 8 of the DD5s shows that a couple of hours prior to the incident, Det. Santos conducted computer checks for § 87(2)(b) which showed that in a list of seven of his most recent addresses, § 87(2)(b) (incident location) was listed five times and § 87(2)(b) (incident location) was listed two times. § 87(2)(b) was listed as the last two addresses associated with § 87(2)(b) on August 6, 2021, and August 23, 2021. The most recent association between § 87(2)(b) and § 87(2)(b) address was July 1, 2021. Searches of § 87(2)(b) DIR history yielded an incident that occurred on July 1, 2021, involving § 87(2)(b) as a victim of assault.

The DD5 associated with the entry into § 87(2)(b) apartment (page 11) states that at 7:10 AM at the incident location, Det. Santos spoke with § 87(2)(b) who wished to remain anonymous, who stated § 87(2)(b) frequented § 87(2)(b). Det. Santos also spoke with a worker from the management office, who stated that § 87(2)(b) was seen inside the building on the 2<sup>nd</sup> or 3<sup>rd</sup> floor. Det. Santos knocked at the incident location and heard movement from inside. The door was forced open to gain entry causing damage to the door lock. A search of the location was conducted with negative results for § 87(2)(b). Sgt. Rapp was on scene. Det. Santos spoke with § 87(2)(b) following the incident, who said that § 87(2)(b) used to

reside at the location, and he does frequent the vicinity.

The following DD5 states that at 7:40 AM that same day, members of the (NYPD) JAWS Team visited § 87(2)(b) § 87(2)(b) which was § 87(2)(b) known address with parole. The officers knocked and received no answer or noise coming from inside. The officers called § 87(2)(b) and received no answer. Several hours later, communication was established with § 87(2)(b) and she stated that § 87(2)(b) had not been at the location since August 20, 2021. The following entry states that on September 2, 2021, Det. Santos and members of the JAWS Team, visited § 87(2)(b) residence again in an attempt to locate § 87(2)(b) but they were met with negative results.

In Payton v. New York, 445 U.S. 573 (BR 17), the court held that absent exigent or emergency circumstances, warrantless entries into a home are presumptively unreasonable and the threshold may not be crossed without a warrant.

In People v. Diaz, 163 Misc. 2d 103 (BR 14), the court held that a parole warrant is the functional equivalent of an arrest warrant for the purpose of a residential search.

New York Criminal Procedure Law § 120.80 (BR 16) states that in order to execute a warrant of arrest, officers may enter any premises in which they reasonably believe the defendant to be present unless the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant.

§ 87(2)(g)

Although Det. Santos testified that a building employee informed him that § 87(2)(b) lived on the 2<sup>nd</sup> or 3<sup>rd</sup> floor and that a tenant stated that § 87(2)(b) lived in the building, Det. Santos reported in the DD5 entry associated with the incident that these individuals stated § 87(2)(b) “frequented” the building and that he was “seen” on the 2<sup>nd</sup> or 3<sup>rd</sup> floor. Given that Det. Santos prepared this DD5 on the date of the incident when his recollection of his conversations with the employee and the tenant was likely more accurate than at the time of his CCRB interview almost a year after the incident, the investigation credited the account detailed in the DD5 entry.

Given that the maintenance worker and the tenant did not specify to Det. Santos that § 87(2)(b) lived at the location, but instead informed him that they had only seen him in the building, as per the DD5, § 87(2)(g)

Moreover, although § 87(2)(b) had used § 87(2)(b) address with parole in the past, his parole warrant lists § 87(2)(b) address at the time of the incident and Det. Santos’ database searches showed that he was associated with her address more recently and more often than he was with § 87(2)(b)

Furthermore, given the inconsistencies in Det. Santos’ DD5 entry and his testimony about what the employee and the tenant told him, the investigation was unable to determine what information he provided Sgt. Rapp when he arrived on scene. However, even in crediting Sgt. Rapp’s account that Det. Santos told him these individuals claimed § 87(2)(b) was staying at § 87(2)(b) apartment, given that Sgt. Rapp acknowledged that he did not know § 87(2)(b) most recent parole address or whether Det. Santos visited § 87(2)(b) prior to the incident location, which was the address he was primarily associated with, § 87(2)(g)

§ 87(2)(g)

**Allegation (G) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

It is undisputed that officers interacted with § 87(2)(b) and § 87(2)(b) in § 87(2)(b) bedroom while searching for § 87(2)(b). PO Stalikas stayed outside the building to watch the windows when the officers arrived.

§ 87(2)(b) stated that after the officers entered the apartment, § 87(2)(b) opened the bedroom door and she heard one of the officers say, “Move the fucking kid out of the way,” in an apparent reference to § 87(2)(b). § 87(2)(b) did not provide a description of the officer who made this statement. § 87(2)(b) made no mention of any officers using profanity.

Det. Santos stated that he, Det. Galasso, Sgt. Rapp, and two other officers entered the apartment. Det. Galasso stated he did not recall if he entered the apartment. Sgt. Rapp stated that he remained by the front door while the other officers entered the apartment and he did not recall who, aside from Det. Santos, went inside. Det. Santos and Det. Galasso both stated Sgt. Rapp arrived with at least two other officers, but they did not know who these officers were. Sgt. Rapp stated he arrived on scene alone.

Det. Santos denied stating, “Move the fucking kid out of the way” and stated he did not hear another officer say this. Sgt. Rapp denied making a statement to the effect of, “Get these fucking kids out of here” and stated he did not overhear another officer say this. Det. Galasso also denied using profanity and stated that he did not hear an officer use the word “fuck,” toward § 87(2)(b).

§ 87(2)(g)

**Allegation (H) Abuse of Authority: An officer drew their gun.**

It is undisputed that officers went to § 87(2)(b) apartment to apprehend § 87(2)(b) on an active parole warrant. The officers knocked on the door and, upon receiving no response from the individuals inside, forced the door open, entered, and went into a bedroom, where they interacted with § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) stated that once the apartment door was open, three officers entered. The first officer to enter pointed his gun into § 87(2)(b) room, went inside the room, and then holstered the gun. § 87(2)(b) described this officer as a 5’8” to 5’9” tall fat white male in a blue uniform who had short hair. § 87(2)(b) stated that two officers entered § 87(2)(b) bedroom and neither officer had his gun out.

The officers consistently denied having their firearms out during the incident and stated that they did not witness any other officers do this. Det. Santos stated that he had § 87(2)(b) parole warrant with him on the date of the incident.

Det. Santos stated that he, Det. Galasso, Sgt. Rapp, and two other officers entered the apartment. Det. Galasso stated he did not recall if he entered the apartment. Sgt. Rapp stated that he remained by the front door while the other officers entered the apartment and he did not recall who, aside from Det. Santos, went inside. Det. Santos and Det. Galasso both stated Sgt. Rapp arrived with at least two other officers, but they did not know who these officers were. Sgt. Rapp stated he arrived on scene alone.

Det. Santos’ MOS Photo (BR 22) shows he is a 5’10” tall Hispanic male with short hair and an average build. Sgt. Rapp’s MOS Photo (BR 23) shows he is a 5’8” tall white male with short hair and an average build. Det. Galasso’s MOS Photo (BR 24) shows he is a 5’9” tall Hispanic male with short hair and an average build.

§ 87(2)(b)



Patrol Guide Procedure 221-01 (BR 08), states that the decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable.

Given that the officers all denied drawing their firearms, that they provided inconsistent testimony about which officers entered the apartment, and that Det. Santos, Det. Galasso, and Sgt. Rapp all partially resemble § 87(2)(b) description of the subject officer as they are all approximately 5'8" to 5'9" tall males with short hair, absent video footage or additional evidence, the investigation was unable to determine which officer allegedly drew his firearm during the incident.

However, given that the officers went to § 87(2)(b) apartment to apprehend § 87(2)(b) on an active parole warrant, for which his convicted charge was criminal possession of a weapon, and that the subject officer allegedly drew his gun after they forcibly entered the apartment in which they believed § 87(2)(b) to be, § 87(2)(g)

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 04).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 21).
- Sgt. Rapp has been a member-of-service for 15 years and has been a subject in nine CCRB complaints and 22 allegations, none of which were substantiated. § 87(2)(g)
- Det. Santos has been a member of service for 12 years and has been a subject in five CCRB complaints and 18 allegations, none of which were substantiated. § 87(2)(g)

#### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 26, 2022, a Notice of Claim had not been filed in regard to this incident (BR 18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 16

Investigator: \_\_\_\_\_ Inv. Dean \_\_\_\_\_ Inv. Dean \_\_\_\_\_ 11/16/22  
Signature Print Title & Name Date

Squad Leader:	<u>Patrick Yu</u> Signature	<u>IM Patrick Yu</u> Print Title & Name	<u>11/16/2022</u> Date
---------------	--------------------------------	--	---------------------------

Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
-----------	----------------------	-------------------------------	-----------------